



**Decision Notice and Finding of No Significant Impact
for
Brush Creek Project
USDA-Forest Service
Allegheny National Forest
Marienville Ranger District,
Millstone Township, Elk County
Barnett and Jenks Townships, Forest County,
Pennsylvania**

I. Background

The Brush Creek Project (BCP) is located on the Marienville Ranger District of the Allegheny National Forest (ANF) in northwestern Pennsylvania. The project includes 10,248 acres and is located in Millstone Township, Elk County and Barnett and Jenks Townships, Forest County. It includes portions of Management Areas (MA) 1.0, 3.0, and 6.1.

The primary purpose of the BCP is to accomplish resource objectives that meet the overall management goals for the ANF as established in the Forest Plan. The **Purpose** of my decision on this project is to implement Forest Plan direction while addressing site-specific needs and opportunities at the project level. The **Need** for my decision is summarized below (and can also be found on pages 4 and 5 of the Environmental Assessment [EA]):

Manage Vegetation for Current Forest Plan Desired Future Condition

(A) There is need to maintain a diversity of age classes, including early age classes spatially distributed across the landscape in MA 3.0 within the Brush Creek Project Area (BCPA) (USDA-FS 1986a, pp. 4-82 to 4-96). As existing young classes develop and mature into older age classes, there is a need to maintain a young age class component into the next decade.

(B) There is a need to maintain or enhance seedling, shrub, and herbaceous diversity in the BCPA where a legacy of selective browsing by deer has resulted in reduced understory diversity (USDA-FS 1986a, p. 4-3).

(C) There is a need to provide early-successional habitat within MA 1.0. Currently only eight percent of MA 1.0 within the BCPA is in the 0-20 age class. Forest Plan direction calls for 40% of MA 1.0 to be in this younger age class (USDA-FS 1986a, p. 4-62).

(D) There is a need to provide for mature forest conditions and wildlife habitat in MA 6.1 (USDA-FS 1986 a, p. 4-110) and late-successional habitat as part of the forest-wide landscape approach to providing late-successional habitat.

Improve Terrestrial Habitat

(A) Within MA 1.0 and 3.0, there is a need to provide a wide variety of habitat conditions across the landscape to meet the needs of game and non-game wildlife species and maintain or enhance species diversity and abundance within the BCPA (USDA-FS 1986a, pp. 4-60, 4-65 to 4-67, 4-82, and 4-91).

(B) Within MA 6.1, there is a need to provide a predominately forested landscape that has an adequate distribution of age classes and habitat diversity to meet the needs of indicator species,

game and non-game wildlife species, and species that require isolation (USDA-FS 1986a, pp. 4-110, 4-116, and 4-118).

(C) There is a need to restore the forest shrub component to improve wildlife cover and forage conditions to meet the needs of game and non-game wildlife species (USDA-FS 1986a, pp. 4-82, 4-91, and 4-110).

(D) There is a need to improve understory conditions in forest stands dominated by fern to provide stand structure and cover conditions preferred by game and non-game wildlife species (USDA-FS 1986a, pp. 4-82, 4-91, and 4-110).

Improve Aquatic Habitat

There is a need to improve aquatic habitat and channel stability within several streams in the BCPA because sections of these streams are lacking large in-stream coarse woody debris, aquatic habitat diversity, or vegetative cover to provide shade. Opportunities exist along these streams to improve in-stream conditions by directionally felling trees into the streams and/or planting woody vegetation along the stream banks (USDA-FS 1986a, p. 4-3).

Market Wood Based Products for Local Economies

There is a need to provide timber to meet people's demand for wood products such as furniture, paper, fiber, and construction materials (USDA-FS 1986a, pp. 4-2 to 4-3).

Demand for sawtimber from Allegheny hardwood species remains moderately strong, based on open market prices in the region and the number of bids on past ANF sales. Maintaining a consistent flow of Allegheny hardwood timber serves the demands of the public for wood products. Continued production of this renewable resource also meets statutory authority to provide wood products within the capability of the land and within Forest Plan (Multiple Use Sustained Yield Act 1960; National Forest Management Act 1976). Satisfying this demand and meeting the objective of a consistent flow of a renewable resource is compatible with and contributes to other Forest Plan objectives, such as forest health, diversity of forest stands, and maintenance and improvement of wildlife habitat.

II. Decision and Rationale

Decision

I have decided to implement Alternative 3, with the following modifications:

- Drop the 0.7 mile of new construction from the terminus of Forest Road 387, and drop the proposed treatments in stands 661019, 661087, 661088 and 661090 that would have been accessed by this new construction.
- Drop 0.7 mile of new construction at the terminus of the proposed extension of Forest Road 760, and drop the proposed treatments in stands 657037 and 657038 that would have been accessed by this new construction.

Alternative 3 is described on pages 5 to 17 of the EA. The treatments that had been proposed for these stands are listed in Table 3 of the EA, and the roads proposed for new construction are listed in Table 5 of the EA. Table 1, below, incorporates these modifications and provides a full summary of the activities approved by this decision. This decision also includes all design features and mitigation measures listed in Chapter 2 and Appendix B of the EA.

I have reviewed and fully understand the environmental effects described and analyzed in the Brush Creek Environmental Assessment (EA), the supporting information in the project file, and the many comments submitted by the public. And it is only after careful consideration of the analysis, applicable laws, the Forest Plan, and comments submitted by a patient, concerned and involved public that I have arrived at this decision.

Table 1 - Brush Creek Project - Approved Activities	
Timber Harvest	
Even-Aged Harvests (total acres)	1091
Overstory Removal (acres)	15
Shelterwood Seed Cut/Shelterwood Removal (acres)	618
Thinning (acres)	458
Salvage Harvests (total acres)	2
Salvage Only (acres)	2
Uneven-Aged Harvests (total acres)	0
Volume (MMBF)	7.6
Reforestation Activities	
Herbicide (acres)	888
Site Preparation (acres)	663
Fencing (acres)	637
Planting (acres)	323
Tree Shelter Installation (acres)	72
Fertilization (acres)	222
Release (acres)	850
Restore/Improve Wildlife Habitat	
Prescribe Burn (acres)	149
Regenerate Aspen (acres)	51
Plant Shrubs/Aspen/Conifers ¹ (acres)	99
Establish Warm Season Grasses (acres)	5
Prune/Release Fruit Trees (acres)	83
Fencing/Tree Shelters (acres)	89
Create Savannah ² (acres)	18
Place Nest Boxes (structures)	33
Restore/Improve Stream Habitat	
Place Coarse Woody Debris in Streams (miles)	8
Plant Streamside Vegetation (acres)	9
Restore Wetland (acres)	2
Recreation Activities	
Construct parking areas along the Loleta and Lamonaville Roads (number)	7
Transportation Activities	
Road Construction – New Corridor (miles)	3.1
Road Construction - Existing Corridor (miles)	1.5
Road Maintenance (miles)	17.3
Decommission Roads (miles)	3.0
Limestone Surfacing (miles)	0.5
Pit Expansion Areas (number/acres)	6/6
New Pit Development (number/acres)	2/4

Rationale

I have chosen to implement Alternative 3, with modifications, for the following reasons:

1. Alternative 3, with these modifications and with its associated mitigation measures, can be implemented in an environmentally sound manner without significant environmental effects (EA, all sections and Project File), while best meeting the purpose and need for action in the project area (EA, pp.3-5).
2. The mitigation measures that have been included for the protection of soil, water, and vegetation, to reduce the spread of non-native invasive species, and to minimize direct effects to wildlife species provide sufficient protection to allow implementation of Alternative 3, as modified, without significant effects to the quality of the human environment.
3. Alternative 3, with modifications, will achieve the **Purpose and Need for Action** in the project area by implementing the approved activities in the Table 1:
 - a. This decision generates 465 acres of early-successional habitat distributed spatially over MA 3.0. This habitat will be generated by 15 acres of overstory removal in the first entry, and 450 acres of second entry shelterwood removal treatments in stands that have successfully regenerated following shelterwood seed cuts.
 - b. This decision maintains or enhances seedling, shrub and herbaceous diversity through reforestation activities
 - c. This decision generates 168 acres of early-successional habitat distributed spatially over MA 1.0. This habitat will be generated by 168 acres of second entry shelterwood removal treatments in stands that have successfully regenerated following shelterwood seed cuts. Within the BCP, this represents eight percent of MA 1.0 in the 0-20 age class.
 - d. This decision provides for mature forest conditions and wildlife habitat in MA 6.1 by thinning 64 acres to improve stand vigor and provides for late successional habitat across the project area (see Table 11 of the EA, pp. 35-36).
 - e. This decision provides a wide variety of habitat conditions across the project area by prescribe burning 149 acres, regenerating aspen on 51 acres, planting shrubs, aspen and conifers on 99 acres, establishing seven acres of warm season grasses, pruning and releasing 83 acres of fruit trees, creating 18 acres of savannah, and protecting 89 acres of existing and planted shrubs and trees and a unique plant community with fencing and/or tree shelters.
 - f. This decision provides adequate distribution of age classes and habitat diversity in the project area for indicator species, game and non-game wildlife species, and species that require isolation (EA pp 105-124).
 - g. This decision restores forest shrub components to improve wildlife cover and forage by planting and/or fencing 79 acres of wildlife shrubs.
 - h. This decision improves understory conditions in stands dominated by fern by applying herbicides on 915 acres (includes 29 acres of herbicide application for wildlife habitat improvements).

- i. This decision improves aquatic habitat and stream channel stability on eight miles of streams by placing large coarse woody debris in stream channels (see Map 4 of the EA), planting nine acres of streamside vegetation, and restoring two acres of wetlands.
- j. This decision provides timber to meet demand for wood products by harvesting approximately 7.6 million board feet of merchantable timber over the course of two entry periods.
- k. This decision also implements recommendations from the Brush Creek Roads Analysis to provide parking for recreational users along State Routes 2005/3002.
- l. This decision also provides for the transportation system necessary to implement the various approved vegetation treatments.

I have chosen to modify the proposed Alternative 3 for this decision for the following reasons:

- 1. I chose to drop road construction that would extend Forest Road 387 to avoid impacts to the high rating in scenic variety and low development described for the area accessed by this road in the Brush Creek Roads Analysis, and to reduce the need for costly mitigations to reduce impacts to poorly drained soils. In dropping this proposed road construction, and the proposed treatments in the four stands accessed by the proposed extension of FR 387, I have determined that the core closed canopy conditions and recreation opportunities that currently exist have greater value than in the area affected by the proposed extension of FR 387 and the four stands it would have accessed than the benefits of implementing the proposed construction and stand treatments.
- 2. I chose to drop road construction that would extend Forest Road 760 beyond the length necessary to access Stand 657050, and to drop the proposed treatments in stands 657037 and 657038 to retain certain specific qualities on and around the steep slopes adjoining the confluence of Brush Creek and the West Branch of Millstone Creek. In dropping this proposed road construction, and the proposed treatments in these two stands, I have determined that the potential impacts to soils, core closed canopy conditions, and scenic and solitude recreation opportunities have greater value than the proposed extension of FR 760 and the proposed treatments in this specific area.
- 3. The Brush Creek Roads Analysis also identified existing core closed canopy conditions and benefits to recreation of low development in the area accessed by the construction of FR 157C and the extension of FR 591. However, I have determined that these conditions have already been compromised by existing and planned oil and gas development in the area affected by the construction of FR 157C and that there is greater value in these areas from the benefits provided by the access and stand treatments consistent with MA 3.0 and MA 6.1 by the construction of FR 157C and the extension of FR 591.

I am making this decision in compliance with all applicable Forest Plan standards and guidelines. My decision also incorporates additional mitigation measures for the Brush Creek project that exceed the standards and guidelines in the Forest Plan. These measures will afford additional protection to soil, water, and threatened and endangered species. The Brush Creek project has had several iterations, gone through several rounds of public involvement, and had considerable scrutiny over the past decade. It has involved a significant investment of time, expense, professional effort,

and public participation to bring it to the threshold of a decision. To make this decision requires concurrence from the U.S. Fish and Wildlife Service on the Biological Assessment for this project and its alternatives relative to effects on Threatened and Endangered Species. I received this concurrence on March 22, 2007. It would involve considerable additional expense and it would further delay implementation of the proposed activities to wait until the revised Forest Plan takes effect. As such, I believe it appropriate to make this decision at this time, under the authority of the current Forest Plan.

III. Other Alternatives Considered

In addition to the selected alternative, I considered two other alternatives in detail. A comparison of these alternatives can be found in the EA on pages 16-20. Nine other alternatives were considered but eliminated from detailed study as described on pages 14-15 of the EA.

Alternative 1: No Action. Under this alternative, none of the proposed activities would occur in the Brush Creek Project Area. This alternative was not selected because it would not meet the purpose and need for action, would not promote enhanced forest regeneration, and would not promote early successional habitat (other than by natural disturbance).

Alternative 4. I did not select this alternative because I do not it provided the level of treatment that was possible to achieve the Purpose and Need, particularly with regard to early successional habitat in MA 3.0. At the same time, I recognized that some of the issues addressed by this alternative, especially issues related to new road construction, could still be address in specific locations as part of my decision. I considered the issues of unfragmented forest, late successional forest, core closed canopy, unroaded areas, and road management in making my decision, with modifications.

I do not feel that the combination of thinning and shelterwood treatments proposed in the MA 3.0 adjacent to the Yeaney development would result in the kind of cutover landscape envisioned in the comments. I believe the treatments will leave a variety of age classes and species in MA 3.0 adjacent to the property.

I gave this alternative careful consideration, but in the end, felt that Alternative 3, as modified, provided the best balance in achieving the Purpose and Need.

IV. Public Involvement

The Brush Creek Project (BCP) was first scoped for an environmental assessment on May 5, 1998. Seventeen responses were received during the initial scoping period. Changes in forest direction resulted in the decision to accomplish an environmental impact statement (EIS). This resulted in a Notice of Intent (NOI) published in the Federal Register in early 1999. Scoping was again accomplished and eight additional responses were received during the 1999 scoping period. The project was then deferred due to changes in ANF priorities.

Another NOI was published in the Federal Register on March 7, 2003 and a third scoping period begun. A news release was published in several local newspapers during this scoping period, and a scoping package was mailed to over 650 interested parties, including adjacent property owners, on March 4, 2003. Fifty-seven responses were received during the third scoping period. On June 28, 2003, the Marienville Ranger District conducted a tour of the BCPA. Additional comments and questions were received as a result of the public tour. The BCP was initially listed in the ANF

Schedule of Proposed Actions (SOPA) in the fourth quarter of 1997 (October 1 to December 31) and has been listed in subsequent issues.

The NOI to accomplish an EIS for the BCP was withdrawn on November 8, 2006. It has been decided that an EA will be the basis for determining whether or not an EIS will be accomplished. On September 18, 2006, a form was sent to the individuals and organizations on the NEPA #53 mailing list and those who submitted comments during the first three scoping periods or returned postcards asking for the final NEPA documents for the BCP. The form asked the recipients if they wished to stay informed about the BCP and how and when they wished to be informed about the progress of the project.

On October 5, 2006, a Public Comment Package for the 2006 Proposed Action and alternatives develop from scoping to date for the BCP were sent out to those individuals and organizations that responded to the “stay informed” form that they wish to receive it. On October 5, 2006, the Public Comment Package was posted to the ANF website and an email message was sent to those individuals and organizations that asked to be notified electronically when the Public Comment Package was available on the ANF website or had submitted comments electronically for the BCP in the past. A news release was sent to local newspapers and other media on October 6, 2006 announcing the beginning of the formal 30-day comment period and availability of the Public Comment Package for the BCP. Also on October 6, 2006, a legal ad was published in *The Kane Republican* announcing the beginning of the formal 30-day comment period for the BCP.

With the Public Comment Package, the Forest Service re-scoped for public input on the revised proposed action (2006) and the alternatives developed based on scoping to date. At the same time, sufficient information and analysis was provided within the Public Comment Package to allow the public to submit site specific comments on the proposed action and its alternatives.

The responses received during the scoping and 30-day comment periods have been used to identify issues, guide the analysis, and develop an additional action alternative. For a summary of the 1998, 1999, and 2003 scoping comments received, please see Appendix A. For a response to the 2006 scoping and 30-day comments received, please see Appendix C.

V. Finding of No Significant Impact

I have determined that these actions will not significantly affect the quality of the human environment. Therefore, an environmental impact statement is not needed. This determination is based on the effects analysis documented in the Brush Creek Project EA and project file and considers the following factors listed in 40 CFR 1508.27:

(a) Context – Based on the large size of the Allegheny National Forest, and the comparatively small percentage of the area proposed for timber harvesting in this project, the site-specific actions of Alternative 3, both short- and long-term, are not significant. Proposed activities would also be implemented over several years; therefore, activities in progress, at any given time would be limited.

(b) Intensity - I base my finding on the following intensity factors:

1. **Beneficial and adverse effects** – Both beneficial and adverse effects have been considered in the analysis. Benefits of this project were not used to offset adverse impacts, and adverse impacts of this project are not significant even when separated from benefits (EA Chapter 4, pp. 83-142, and Appendix B).

2. **Public health and safety** – Implementation of this project will not cause any significant effects to public health and safety (EA pp. 140-142). Proposed activities are similar to or the same as ones that have been successfully implemented on other portions of the district and forest in past years. None of the activities have been identified as being substantially or inherently unsafe.
3. **Unique characteristics of the geographic area** – No parklands, floodplains, prime farmlands, wild and scenic rivers, or ecologically critical areas will be adversely affected by implementing Alternative 3 as these features are not present near or affected by the project. There will be no significant effects on unique characteristics of the area. The environmental consequences to the physical and biological environments are disclosed in Chapter 4 of the EA.
4. **Controversy** – Based on public participation, the effects on the quality of the human environment are not likely to be highly controversial (EA, all sections). Controversy is described as a dispute amongst the scientific community. Based on that definition, there is no substantial dispute among the scientific community as to the size, nature, or effects of implementing Alternative 3 on the various biological and physical environments.
5. **Uncertainty, unique or unknown risks** - We have considerable experience with the types of activities to be implemented. The effects analysis shows the effects are not uncertain and do not involve unique or unknown risks (EA pp. 140-142).
6. **Precedence** – This proposal does not establish a precedent for future actions with significant effects or represent a decision in principle about future management consideration. Implementing Alternative 3 is within the scope of the Forest Plan and associated supporting environmental documentation (EA pp. 1-3).
7. **Cumulative impacts** – Effects of past, present, and reasonably foreseeable land uses and activities along with the effects of Alternative 3 were considered in reaching my conclusion. The effects of implementing the selected alternative do not individually, nor with other activities taken cumulatively within the areas affected, reach a level of significance (EA Chapter 4, pp. 83-142). Where appropriate, mitigation measures are proposed which are known to keep activities below the threshold level of significance (EA, Appendix B).
8. **Cultural and historic resources** – The project area has been inventoried for heritage resources. There are no known significant effects to heritage resources anticipated with implementation of Alternative 3. If additional heritage resources are discovered during implementation, appropriate design features will be implemented (EA p. 28).
9. **Threatened and Endangered species and their habitat** – There is no designated critical habitat for any federally threatened or endangered species on the ANF. The Forest Service found that the selected alternative would have ‘no effect’ to the threatened small whorled pogonia, the endangered northeastern bulrush, the threatened bald eagle, or the endangered clubshell and northern riffleshell mussels. The Forest Service also found that the selected alternative ‘may affect, not likely to adversely affect’ the endangered Indiana Bat. The U.S. Fish and Wildlife Service concurred with these determinations on March 22, 2007. By following Forest Plan standards and guidelines, mitigation measures (in Chapter 2), and design features (in Chapter 2), the selected alternative is not likely to jeopardize the continued existence of the Indiana bat. In addition, the effects analysis has considered the most recent revision of the Regional Forester’s Sensitive Species (RFSS) list. The selected

alternative will not result in a trend toward Federal listing or a loss of viability for any Forest Service Sensitive Species or other species of local concern (EA pp. 126 127 and the BA and Biological Evaluation (BE)).

10. **Federal, State, or local law or requirements** - The selected alternative conforms to all applicable Federal, State, and local laws and requirements (EA, all sections).

VI. Findings Required by Other Laws and Regulations

I have considered the best available science in order to make this decision. I find that all of the actions included in the selected alternative are consistent with direction in the 1986 Allegheny National Forest Land and Resource Management Plan, as amended. The project is in full compliance with the Endangered Species Act, the Clean Air Act, the Clean Water Act, the National Historic Preservation Act, and the National Forest Management Act.

VII. Implementation Date

Implementation of this decision is subject to the regulations in 36 CFR 215.9. If no appeal is filed, implementation may occur on, but not before, 5 business days from the close of the appeal filing period. If an appeal is filed, implementation may occur on, but not before, 15 business days following the date of appeal disposition. In the case of multiple appeals on this decision, the date of the last appeal disposition controls the implementation date.

VIII. Administrative Review or Appeal Opportunity

This decision is subject to appeal pursuant to 36 CFR 215.11. Appeals must meet content requirements of 36 CFR 215.14. An appeal, including attachments, must be filed (regular mail, fax, hand-delivery, express delivery, or messenger service) with the appropriate Appeal Deciding Officer (36 CFR 215.8) within 45 days following the date of publication of the legal notice.

Written appeals shall be sent to:

Kathleen Morse, Appeal Deciding Officer
Attn: Appeals & Litigation
USDA-Forest Service, Eastern Region
626 E. Wisconsin Avenue
Milwaukee, WI 53202

Appeals may be faxed to (414) 944-3963, ATTN: Appeal Deciding Officer, USDA Forest Service, Eastern Regional Office. Normal business hours (for hand-delivered appeals) are 7:30 a.m. - 4:00 p.m., Monday-Friday. Electronic appeals should be directed to appeals-eastern-regional-office@fs.fed.us. Electronic appeals should be in TXT, RTF, DOC, PDF or other Microsoft Office-compatible formats.

The publication date of the legal notice in the newspaper of record (*The Kane Republican*, Kane, Pennsylvania) is the exclusive means for calculating the time to file an appeal (36 CFR 215.15(a)) and those wishing to appeal should not rely upon dates or timeframe information provided by any other source.

It is the responsibility of interested parties to respond to this notice within the established time period. No means of communication is perfect. Please contact Kevin Treese, District NEPA

Coordinator, at 814-927-6628, X124, if a document is not available or delivered at the expected time, to ascertain its availability, and, if necessary, arrange an alternate delivery method.

IX. Responsible Official and Contact Information

The Responsible Official is:

Robert T. Fallon, District Ranger
Marienville Ranger District
Allegheny National Forest
HC 2 Box 130
Marienville, PA 16239

Questions regarding this Decision Notice and FONSI should be directed to the Responsible Official or Kevin Treese, District NEPA Coordinator, at (814) 927-6628, extension 124. This document is also listed on the Allegheny National Forest website at:

http://www.fs.fed.us/r9/forests/allegheny/projects/vegetative_management

/s/ Pamela K. Thurston (for)
ROBERT T. FALLON
Marienville District Ranger

03/23/07
Date